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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,791	09/27/2000	Roland L. Fernandez	MFCP.73074	6735
7590	08/11/2004			EXAMINER
HOMER L. KNEARL, ESQ. P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			SAJOUS, WESNER	
			ART UNIT	PAPER NUMBER
			2676	
			DATE MAILED: 08/11/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/670,791	Applicant(s) FERNANDEZ ET AL. 						
	Examiner Wesner Sajous	Art Unit 2676						
	-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --							
<b>Period for Reply</b> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>								
<b>Status</b> <p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>5/18 &amp; 7/12/2004</u>.</p> <p>2a)<input checked="" type="checkbox"/> This action is FINAL.      2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>								
<b>Disposition of Claims</b> <p>4)<input checked="" type="checkbox"/> Claim(s) <u>1.2 and 5-14</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1.2 and 5-14</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>								
<b>Application Papers</b> <p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</p> <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>								
<b>Priority under 35 U.S.C. §§ 119 and 120</b> <p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p style="margin-left: 20px;">1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p style="margin-left: 20px;">2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p style="margin-left: 20px;">3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>								
<b>Attachment(s)</b> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;"><input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</td> <td style="width: 50%; padding: 2px;">4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</td> </tr> <tr> <td style="width: 50%; padding: 2px;"><input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</td> <td style="width: 50%; padding: 2px;">5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</td> </tr> <tr> <td style="width: 50%; padding: 2px;"><input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____</td> <td style="width: 50%; padding: 2px;">6)<input type="checkbox"/> Other: _____</td> </tr> </table>			<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____	<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____
<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____							
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)							
<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____							

## DETAILED ACTION

### Remarks

This communication is responsive to the amendments and response filed on May 18, 2004 and the Request for a Continued Examination (RCE) filed on July 12, 2004. Claims 1-2, and 5-14 are currently presented for examination.

### ***Response to Arguments***

1. The Applicants, at page 7 of the response, argue that the Johnson reference fails to define a theme handle as a reference to a predetermined set of appearance characteristics stored in an internal data structure, or a theme handle as part of a render service request from a graphical component library.

The Examiner, in response, respectfully disagrees. Johnson, at col. 5, line 59 to col. 6, lines 9, provides a pattern table used to look up information and serves to abstract color and/or pattern of an object from its other attribute. By this citing, since the pattern table is used to lookup information or abstract color and patterns, the pattern table, is, therefore, corresponding to the theme handle, wherein the color and patterns of the object that being looked up serve as the reference to the predetermined set of characteristics that are stored in the internal structure (e.g., table look up 48). Note that since the colors and/or patterns (e.g., appearance characteristics) can be looked up in a table, they must be predetermined. In addition, Johnson at col. 6, lines 5-8, suggests that the client (e.g., graphical component library) can instruct the graphics subsystem

(56 as part of appearance manager 40, see fig. 4) to render the appropriate color and/or pattern. Or, the client or application can command the appearance manager to draw an object using the identified pattern and/or color (see col. 5, lines 65-68). By this, it is clear that the theme handle (e.g., pattern table) serves as part of a render service request from a graphical component library (e.g., client or application 38), for the rendering command involves the drawing of objects based on the pattern or color of objects abstracted from the table. Thus, the Applicant's arguments are not deemed persuasive.

With regard to claim 10, it is noted that the above arguments apply as well, since the argued features are analogous to those of claim 1.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-2, 5-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnston, Jr. et al., Pat. No. 6,104,391, hereinafter Johnston.

Considering claim 1, Johnston discloses an analogous system and method for providing a user with increased flexibility and control over the appearance and behavior of object on a user interface (see abstract). In particular, Johnston, at fig. 4, discloses a method of communicating between a graphical component library (38 or a client) and an appearance manager (40), comprising: issuing, by the graphical component library (38 or the client), a rendering service request (as met by items 46 and 56/40 of fig. 4, see col. 5, line 61 to col. 6, line 8) for a graphical component (i.e., an object or icon, see col. 4, lines 45-47), the request including at least one component defining parameter[s] (i.e., wherein the defined parameter[s] are deciphered herein as the pieces of code from the drawing procedure including object's geometry, see col. 5, lines 36-51, and/or simply values, see col. 9, lines 1-6) and a theme handle (e.g., pattern table 48 and/or a theme data resource defining patterns or colors used by a theme, see col. 23, line 66 to col. 24, line 11)... being a reference to a predetermined set of appearance characteristics (e.g., colors and/or patterns) stored in an internal data structure (e.g., the table look up) accessible to the appearance manager (40 via, e.g., client 38, see col. 5, line 65 to col. 6, line 8, and col. 23, line 66 to col. 24, line 11. Note that since Johnson at col. 6, lines 5-8, suggests that the client (e.g., graphical component library) can instruct the graphics subsystem (e.g., item 56 as part of appearance manager 40, see fig. 4) to render the

*appropriate color and/or pattern; or, the client or application can command the appearance manager to draw an object using the identified pattern and/or color (see col. 5, lines 65-68, the theme handle or pattern commanded by the client is accessible to the appearance manager 40); and receiving, by the appearance manager (40), the rendering service request (e.g., items 46/56 of item 40 shown in fig. 4) for the graphical component and assigning the predetermined appearance characteristics (e.g., attributes including object's behavior, patterns, and/or colors) to the graphical component based upon at least one component parameters and the theme handle (see col. 5, line 44 through col. 6, line 17).*

Re claim 2, Johnston discloses the claimed "parameters include a part ID and a state ID, and wherein the assigned appearance characteristics are based upon the part ID and the state ID" as met by the functions of device item 46 of fig. 4, i.e., the drawing procedures or pieces of code involving a resource ID per procedure being called (see col. 7, lines 1-40), wherein the part ID corresponds to the interface geometry elements data, including list of operational codes (see col. 7, line 60 to col. 8, line 25), and the state ID corresponds to the *interface behavior elements data* (see col. 8, line 66 to col. 10, line 40). The Applicants should duly note that each one of the above procedures corresponds to a piece of code or ID as defined by device 46.

Regarding claim 5, Johnston, at figs. 4, and 12, discloses the equivalence for: Issuing, by the appearance manager (40, fig. 4) to the graphical component library (38 or client), a message that a desired appearance characteristics have changed (as characterized by the depiction at col. 23, lines 43-59, wherein the appearance

*characteristics are defined by theme properties, 72 of fig. 12); issuing, by the graphical component library (38 or client) to the appearance manager (40), a request for a new theme handle corresponding to a new predetermined set of appearance characteristics stored in the internal data structure (see col. 23, line 60 col. 24, line 52, particularly col. 24, lines 35-52, and col. 25, lines 27-39, wherein the theme handle is treated herein as a reference to a theme file records or properties or any of the characteristics defined by devices 70 and 72, in association with theme switch 50 and drawing procedures 46); identifying, by the appearance manager (40), a new theme handle (see col. 24, lines 53-55); and issuing, by the appearance manager (40) to the graphical component library (38 or client) the requested new theme handle (see col. 25, lines 27-39), the new theme handle being a reference to the new predetermined set of appearance characteristics. (Note that since the appearance characteristics or patterns from a theme resources are abstracted from a table pattern (characterized as the theme handle, see col. 23, line 60 col. 24, line 52), the theme handle or theme data resource is a reference to the a predetermined set of appearance characteristics)).*

Re claim 6, Johnston discloses the claimed "requested graphical component is a control" is met by col. 4, lines 44-47 and/or col. 5, lines 58-59.

Re claim 7, Johnston discloses the claimed "one of the parameters of the graphical component rendering service request is a location for the control" is characterized by col. 4, lines 48-55.

Claim 8 is for a computer readable medium having computer executable instructions for performing the steps recited in claim 1. It is therefore, rejected under the same rationale set forth above for claim 1.

Claim 9 is for the computer system operable to perform the steps recited in claim 1. Claim 9 is, therefore, rejected under the same rationale set forth above for claim 1. In addition, Johnston discloses a computer system (see col. 1, lines 24-27) having a processor (i.e., appearance manager 40, fig. 4) a memory (i.e., pattern look-up tables 48, see col. 15, lines 30-32), and an operating environment (i.e. application 38, fig. 4 or the operating systems, col. 1, lines 25-27). The Applicants should keep in mind that every computer system has a processor, a memory and an operating system environment.

Regarding claim 10, Johnston, at figs. 4 and 12, discloses: issuing, by the graphical component library (38 or a client), a request for a theme handle (e.g., *pattern table 48 and/or a theme data resource defining patterns or colors used by a theme*, see col. 23, line 66 to col. 24, line 11) corresponding to a predetermined set of appearance characteristics (e.g., *colors and/or patterns*) to be used when rendering at least one graphical component (i.e., *an object or icon*, see col. 4, lines 45-47 and col. 5, line 65 to col. 6, line 8); receiving, by the appearance manager (40), the theme handle request (as characterized by the combined functions of items 46, 50, 70 & 72, as implied in see col. 5, line 65 to col. 6, line 8, and col. 23, line 66 to col. 24, line 11); identifying, by the appearance manager (40) the theme handle; issuing, by the appearance manager (40), the theme handle; and receiving, by the graphical component library (device 38 or the

*client), the requested theme handle (see col. 6, lines 10-15), theme handle (e.g., pattern table 48 and/or a theme data resource defining patterns or colors used by a theme, see col. 23, line 66 to col. 24, line 11) being a reference to a predetermined set of appearance characteristics (e.g., colors and/or patterns) stored in an internal data structure (e.g., the table look up. See col. 5, line 65 to col. 6, line 8, and col. 23, line 66 to col. 24, line 11.)*

Re claim 11, Johnston, at figs. 4 and 12, discloses issuing, by the graphical component library (38), a rendering service request (46/56) for a graphical component (i.e., *an object or icon*, see col. 4, lines 45-47), the request including at least one component defining parameter (i.e., *pieces of code or drawing procedure*, see col. 5, lines 36-43); and wherein the theme handle (46/50, 70 & 72) is issued by the graphical component library (38 or client) as a component defining parameter (see col. 23, lines 43-59).

Regarding claim 12, Johnston discloses the equivalence for:

Issuing, by the appearance manager (40, fig. 4) to the graphical component library (38, fig. 4), a message that a desired appearance characteristics have changed (as characterized by the depiction at col. 23, lines 43-59, wherein the appearance characteristics are defined by theme properties); issuing, by the graphical component library (38 or client) to the appearance manager (40), a request for a second (or new) theme handle corresponding to a second predetermined set of appearance characteristics stored in the internal structure (e.g., *table 48*, see col. 23, line 60 col. 24, line 52, particularly col. 24, lines 35-52, and col. 25, lines 27-39, wherein the theme

*handle is treated herein as a reference to a theme file records or properties); identifying, by the appearance manager (40), a new theme handle (see col. 24, lines 53-55); and issuing, by the appearance manager (40) to the graphical component library (38 or client) the requested second theme handle (see col. 25, lines 27-39), the second theme handle being a reference to the second predetermined set of appearance characteristics (note that since the appearance characteristics or patterns from a theme resources are abstracted from a table pattern (characterized as the theme handle, see col. 23, line 60 col. 24, line 52), the theme handle or theme data resource is a reference to the a predetermined set of appearance characteristics)).*

Claim 13 is for a computer readable medium having computer executable instructions for performing the steps recited in claim 10. It is therefore, rejected under the same rationale set forth above for claim 10.

Claim 14 is for the computer system operable to perform the steps recited in claim 10. Claim 14 is, therefore, rejected under the same rationale set forth above for claim 10. In addition, Johnston discloses a computer system (see col. 1, lines 24-27) having a processor (i.e., appearance manager 40, fig. 4) a memory (i.e., pattern look-up tables 48, see col. 15, lines 30-32), and an operating environment (i.e. application 38, fig. 4 or the operating systems, col. 1, lines 25-27).

***Conclusion***

**4. THIS ACTION IS MADE FINAL.** The Final is necessitated by the Applicant's amendments, which fails to overcome the prior art that was available to the Applicant. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Any response to this action should be mailed to:**

**Box**

Commissioner of Patents and Trademarks

Washington, DC 20231

**or faxed to:**

(703) 872-9314, (for technology center 26000 only)

**Or:**

(703) 308-5359 for informal or draft communications, please label "PROPOSED"

or DRAFT")

Hand-held delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, 6th floor (receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesner Sajous whose telephone number is (703) 308-5857. The examiner can be reached on Mondays thru Thursdays and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Supervisor, Matthew Bella, can be reached at (703) 308-6829. The fax phone number for this group is (703) 308-6606.

**Wesner Sajous -WS-**



8/5/04



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